

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF:)	
)	Docket No. 2017-130
Certified Technician Registration of)	DIA No. 18PHB0013
LEAH (CULLISON) LECOUNT)	
Registration No. 20200,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent.)	DECISION, AND ORDER
)	

STATEMENT OF THE CASE

On November 1, 2017, the Iowa Board of Pharmacy (Board) found probable cause to file a Notice of Hearing and Statement of Charges against Respondent Leah (Cullison) LeCount. The Statement of Charges alleges that Respondent diverted prescription drugs from a pharmacy for personal use or distribution.

The hearing was held on January 16, 2018. The following members of the Board presided at the hearing: Sharon Meyer, chairperson; LaDonna Gratiyas; Gayle Mayer; Edward McKenna; Brett Barker; and Jason Hansel. Assistant attorney general Laura Steffensmeier represented the State. Respondent LeCount did not appear.¹ The hearing was open to the public pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Administrative Law Judge Laura Lockard assisted the Board in conducting the hearing and was instructed to prepare the Board's written decision in accordance with its deliberations.

THE RECORD

The record includes the Notice of Hearing and Statement of Charges. The record also includes hearing testimony of Jim Wolf. The State introduced Exhibits 1 through 5, which were admitted as evidence.

FINDINGS OF FACT

At the time of the events in question, Respondent Leah (Cullison) LeCount² held Iowa certified technician registration number 20200. LeCount was also a licensed pharmacy technician in the state of Illinois during the relevant time period. At all times relevant to

¹ LeCount was served the Statement of Charges & Notice of Hearing by publication after other methods were unsuccessful. (Exh. 2).

² Respondent's last name was previously Cullison; that is the name under which she was registered as a certified pharmacy technician. She told the Board's investigator during the investigation that she had gotten married and changed her last name to LeCount. (Wolf testimony; Exh. 3, p. 9).

this action, Respondent was employed at Genesis Medical Center – Silvis (GMC) in Silvis, Illinois.

In August 2017, Genesis Health System conducted an investigation after notification that drugs were missing from the operating room at Genesis Medical Center – Silvis. The medications that were missing from GMC included the following: alfentanil, midazolam, fentanyl, remifentanyl, and hydromorphone. A total of 70 doses were reported as missing. (Exh. 3, pp. 15-16).

GMC's investigation revealed that medications were removed under a number of employees' logins. A review of those employees and other personnel in the operating rooms during the procedures at issue revealed no clear pattern, therefore the hospital decided to install cameras in several operating rooms. After reviewing camera footage and reviewing badge entry into the operating rooms, the investigative team discovered that LeCount had badged into the operating room or was restocking medications during every occurrence. Additionally, the team discovered that LeCount was badging into operating rooms during times when the pharmacy department should not have been completing tasks in the operating rooms. Video footage also showed LeCount walking around the operating rooms before clocking in for her shift. (Exh. 3, p. 16).

The GMC investigative team interviewed LeCount regarding the medication shortages and she admitted to taking medications from the GMC operating rooms. LeCount initially stated that she took the medications for someone else, but later stated that she took the medications for herself because she is in pain. GMC terminated LeCount's employment as a result of her actions. (Exh. 3, p. 17).

The Silvis Police Department conducted an investigation into the medication theft after being informed of the matter by GMC. LeCount was interviewed by police and admitted to stealing the medications that GMC reported missing. LeCount estimated she stole medications on 15 to 20 occasions. (Exh. 3, pp. 23-29).

CONCLUSIONS OF LAW

Count I: Diversion of Drugs

Pursuant to Iowa Code section 155A.6A(5), the Board is authorized to deny, suspend, or revoke the registration of, or otherwise discipline, a registered pharmacy technician for any violation of any rule of the Board. The Board's rules provide that discipline may be imposed when a registrant diverts prescription drugs from a pharmacy for personal use or distribution.³ The evidence establishes that LeCount was diverting drugs from GMC for personal use. As such, the violation alleged in Count I has been established.

³ 657 Iowa Administrative Code (IAC) 36.6(37).

Sanction

The Board may consider a number of factors in determining the nature and severity of the disciplinary sanction to be imposed when a violation is established, including the relative seriousness of the violation as it relates to assuring a high standard of professional care; the facts of the violation; any extenuating circumstances; whether remedial action has been taken; and any other factors that reflect upon the competency, ethical standards, and professional conduct of the registrant.⁴

The violations committed by LeCount demonstrate that she is unfit to hold a registration as a certified pharmacy technician and presents a danger to the public health, safety, and welfare. LeCount did not appear at hearing to respond to these charges. The violations justify revocation of LeCount's registration.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the pharmacy technician registration issued to Leah (Cullison) LeCount is hereby REVOKED. If Respondent seeks reinstatement of her registration the burden will be placed on her to show that the basis for the revocation no longer exists and that it is in the public interest for her registration to be reinstated.

IT IS FURTHER ORDERED pursuant to Iowa Code section 272C.6 and 657 Iowa Administrative Code 36.10, that Respondent Leah LeCount shall pay a \$75 fee to the Board for conducting the disciplinary hearing. In addition, the executive director of the Board may bill Respondent for any witness fees and expenses or transcript costs associated with this disciplinary hearing. Respondent shall remit for these expenses within 30 days of receipt of the bill.

Dated this 14th day of March, 2018



Sharon Meyer
Chairperson, Iowa Board of Pharmacy

cc: Laura Steffensmeier, Assistant Attorney General

⁴ 657 IAC 36.7(2).

A default decision or decision rendered on the merits after a party has failed to appear or participate in a contested case hearing shall become final board action unless within 15 days after the date of notification or mailing of the decision a motion to vacate is filed and served on all parties or unless an appeal of a decision on the merits is timely initiated within the time provided by rule 35.30. A motion to vacate must state all facts relied upon by the moving party which establish good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated shall be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) shall be attached to the motion. 657 IAC 35.27. The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate. 657 IAC 35.27(4).

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.